

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

UNITED STATES FOR THE USE AND  
BENEFIT OF MID STATE CONSTRUCTION  
COMPANY, INC.; and MID STATE  
CONSTRUCTION COMPANY, INC.

PLAINTIFFS

VS.

CIVIL ACTION NO. 5:11-cv-169(DCB)(MTP)

TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA; U.S.  
COATING SPECIALTIES & SUPPLIES,  
LLC; and EARL WASHINGTON

DEFENDANTS

ORDER

This cause is before the Court on defendant Travelers Casualty and Surety Company of America ("Travelers")'s Motion to Strike defendant U.S. Coating Specialties & Supplies, LLC ("U.S. Coating")'s Answer to Travelers' Cross Complaint against U.S. Coating (**docket entry 76**). Having carefully considered the motion, to which no response has been filed by U.S. Coating, and being fully advised in the premises, the Court finds that the motion should be granted for the following reasons:

On January 24, 2013, Travelers filed its Cross Complaint against U.S. Coating to recover losses incurred on payment and performance bonds issued on behalf of U.S. Coating and others. On February 13, 2013, the Cross Complaint was served on U.S. Coating by serving Earl Washington, U.S. Coating's registered agent for service of process. On March 7, 2013, U.S. Coating filed its Answer. The document was submitted and signed by Earl Washington,

individually and as CEO of U.S. Coating, even though U.S. Coating was the only named defendant in the Cross Claim.

A separate Cross Complaint against Earl Washington and the Estate of Alberta Washington had been filed by Travelers on October 10, 2012. An Answer to this Cross Claim was filed by attorney Herbert J. Irvin on behalf of U.S. Coating, Earl Washington, and the Estate of Alberta Washington, even though Earl Washington and the Estate of Alberta Washington were the only named defendants in the Cross Claim.

The March 7, 2013 Answer purportedly filed by U.S. Coating must be stricken because Earl Washington is not a licensed attorney and is not authorized to appear on behalf of U.S. Coating. He has previously been warned that he may not represent U.S. Coating by United States Bankruptcy Judge Edward Ellington in U.S. Coating's bankruptcy proceedings, and by Magistrate Judge Linda Anderson in a matter involving a payment bond claim against Travelers. Because a limited liability company cannot represent itself pro se, but only through legal counsel, and because Earl Washington is not a licensed attorney, Travelers' motion is well taken. The Court does not address the effect, if any, of Attorney Irvin's Answer on behalf of U.S. Coating to the October 10, 2012 Cross Claim against Earl Washington and the Estate of Alberta Washington, because that issue is not before the Court. Accordingly,

IT IS HEREBY ORDERED that defendant Travelers Casualty and

Surety Company of America's Motion to Strike defendant U.S. Coating Specialties & Supplies, LLC's Answer to Travelers' Cross Complaint against U.S. Coating (**docket entry 76**) is GRANTED, and the Answer is stricken.

SO ORDERED, this the 9th day of September, 2013.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE